

## NAVAJO COUNTY AGENDA ITEM REQUEST FORM

<b>Meeting Date:</b> November 10, 2009	<b>Time Needed:</b> 15 min
<b>Requesting Department:</b> Planning & Zoning	<b>Presenter(s) Name:</b> Greg Loper
<p><b>Motion before the Board:</b> Mr. Chairman, I move that we approve, by Resolution No. ____-09, the Special Use Permit to allow NZ Legacy to erect four (4) meteorological towers within the “Bar J Bar Energy Project” for a 36-month period, each with a total height of 197 feet, along with the other conditions noted in the staff report and listed on the resolution.</p>	
<p><b>Recommendation:</b> (who, what, where, when, how, etc.) Approve the request with stipulations as presented by staff.</p>	
<p><b>Background:</b> (why should it be done, what will happen if not approved, etc. include resolution)</p> <p>This is a public hearing.</p> <p>Discussion and possible Board action on a request by NZ Legacy, for a Special Use Permit to allow the placement of four (4) meteorological towers, each with a total height of 197 feet, to measure and collect wind data for the purpose of evaluating the potential for alternative (wind) power generation on selected portions of the site commonly referred to as the “Bar J Bar Energy Project”.</p> <p>The “Bar J Bar Energy Project” consists of approximately 5,440 acres on both sides of State Route 77, located approximately 3 miles to the southwest of Woodruff.</p> <p>The Planning Commission recommended approval by a vote of 4-2 on October 15<sup>th</sup>, and staff concurs, along with minor modifications to the recommended stipulations.</p>	
<p><b>Fiscal Impact:</b> (what will it cost, where funds will come from, is it budgeted, etc.)</p> <p>N/A</p>	
<p><b>Reviewed and approved by:</b> _____ County Manager     _____ Public Works  County Attorney _____ Human Resources _____ Finance _____ MIS _____</p>	
<p><b>Board Action Taken:</b>  Approved <input type="checkbox"/>   Denied <input type="checkbox"/>   No Action <input type="checkbox"/>   Continued <input type="checkbox"/>   Continued to:  Approved with changes as follows <input type="checkbox"/></p>	
<p><b>Clerk's Notes:</b></p>   <p>Date:             Initial:</p>	

**REMINDER:** Email this coversheet and all backup documentation to “IT Support” by 4:00 p.m. the Thursday prior to the Managers’ meeting. The Clerk’s Office will print the document and make necessary copies for signatures at Managers’ meeting.



NAVAJO COUNTY  
PUBLIC WORKS DEPARTMENT  
PLANNING & ZONING

## STAFF REPORT

### BOARD OF SUPERVISORS

**HEARING DATE:** November 10, 2009

**CASE #:** 09-23 (PZ)

**ACTION:** SPECIAL USE PERMIT

**APPLICANT/OWNER:** Langley NZ Ranches, LLC/ Steven G. Rees, Manager

**PROJECT NAME:** Bar J Bar Ranch

**PARCEL INFORMATION:**

**Location:** East and west of State Route 77 between Snowflake and Holbrook, approximately 3 miles to the southwest of Woodruff

**APN's:** 110-08-003A, 110-03-001E & 110-03-001D (portions of, within the Sections noted below)

**Legal Desc.:** Sections 3 & 5 of Township 15 North, Range 21 East, and Section 27 of Township 16 North, Range 21 East

**District:** III

**Parcel Size:** Approximately 5,440 acres (8 Sections)

**STATED REASON FOR REQUEST:** To allow NZ Legacy to place four (4) Meteorological testing towers with a total height each of 197 feet to measure wind for the potential of alternative (wind) energy production.

**OPPOSITION / SUPPORT:** Staff has received written opposition to the meteorological towers, as well as numerous phone calls and e-mails. A number of people also spoke in opposition at the Planning and Zoning Commission hearing held on October 15, 2009.



**GENERAL CHARACTER OF SITE & AREA:** The site and the surrounding area has some sporadic juniper growth and grasslands, and is primarily used for grazing and ranching.

**NAVAJO COUNTY ORDINANCES, PLANS & REGULATIONS:**

**ZONING DISTRICTS:**

Current: RU-20

Uses: Single family dwellings, farms, ranching, grazing, feed stores, churches, public schools, caretaker's quarters and utility facilities.

**ZONING ORDINANCE:**

Article(s): 20 – Special Uses Planned Unit Development

Section(s): 2001(32) – Special Uses: "Television, wireless towers, and radio transmitter towers and stations, subject to approval by Federal Regulatory Agencies".

**COMPREHENSIVE PLAN / AREA PLANS:**

Navajo County Comprehensive Plan: The Navajo County Comprehensive Plan, adopted on May 17, 2004, indicates that the land use categories for the site are a mix of "Rural Edge" and "Community Village". Industrial uses are allowed within both of these land use categories. In addition, the proposed use is interim in nature.

Cedar Hills Land Use/Community Plan: This plan is not an adopted plan, but was completed on March 25, 2006. This plan does not cover the subject site.

**CHANGING CONDITIONS:** This proposed use will create very limited new traffic; only information gatherers will be going to the site. Present uses will be continued.

**DEPARTMENT OF PUBLIC WORKS COMMENTS & RECOMMENDATIONS:**

**BACKGROUND/SUMMARY:**

May 13<sup>th</sup>, 2009: The Planning & Zoning staff received five (5) Special Use Permit requests for developing alternative energy projects in the County. Specifically, these projects were designated as the Bar J Bar, F Bar, Mexican Hollow, Hay Hollow, and the Silver Creek Energy Projects. Each SUP requested the approval to install meteorological towers, solar generating modules, and wind turbines on their respective sites. Staff sent letters of notification of the proposals and requested comments from the City of Holbrook and the Towns of Snowflake and Taylor. Letters also were sent to the local ADOT office, the Petrified Forest, and the U.S. Forest Service. As the public became aware of the proposals, an enormous amount of interest and questions arose regarding the proposed projects. Predominant questions/issues included location of the units, water usage and how the aquifer/water table would be affected, noise, health issues, effect on land value, number of jobs created, and others. The public hearings for the SUP requests were scheduled for consideration by the Planning Commission on July 16<sup>th</sup>, 2009. Because of the amount of

interest generated by these proposals, the "notification area" for the public hearing was expanded beyond the statute requirement of 300 feet.

July 16<sup>th</sup>, 2009: Navajo County Planning and Zoning Commission. At the public hearing, in excess of 100 persons were in attendance. The prevailing public sentiment was clearly negative, and the same questions regarding the aforementioned issues were again voiced. The Commission, after a hearing on each request, voted to continue each request until a more detailed plan for each request, reviewed by staff, could be brought before the Commission. Members of the Commission also very strongly encouraged the applicant to conduct public meetings to address the citizen concerns. Several meetings with the applicant and staff took place prior to the meetings to insure that answers would be provided to the questions raised. The applicant was urged by staff to provide information by "experts" in an attempt to get credible information on the table.

August 10, 2009: In response to a request from residents in the Cedar Hills planning area, a separate meeting was held (without the applicant) in the Cedar Hills area, and attended by staff members and Supervisor DeSpain, to allow the residents to voice concerns and comments to Supervisor DeSpain and for staff to explain the County Special Use Permit public hearing process.

August 31 & September 2, 2009: In response to the Planning Commission's suggestion, the applicant held two public meetings at the Northland Pioneer College campus in Snowflake. These two meetings were well attended by the public, and also were attended by County staff and County management as well as Supervisor Despain. The applicant made a presentation addressing issues and questions and attempted to answer questions from the audience. Both meetings went very well.

September 24, 2009: The applicant, after considering the public input, staff's position, and the hearing process, has elected to revise his requests and apply only for four (4) meteorological towers each on two of the project sites at this time (Bar J Bar and F Bar). The remaining revised requests will follow at a later date. The applicant has also provided a news release to the media voicing appreciation to the public for their input, outlining their revised approach, and advising their emphasis will be on low to no water use technologies for solar power generation. Notices for these hearings were again sent to the City of Holbrook, Town of Snowflake, Town of Taylor, the Petrified Forest, USFS, Game & Fish, and the local ADOT office as well as the enhanced notification in the project areas.

October 15, 2009: Planning & Zoning Commission. At the hearing, the Special Use Permit was recommended for approval on a 4 – 2 vote, subject to conditions as outlined in their Resolution. No specific reasons were given for the dissenting votes (Commission members Teetsel (District 5) and Lawson (District 3)). There were approximately a dozen persons who spoke in opposition to these requests, primarily due to concerns that the approval of the meteorological towers will make it that much easier to develop the properties for wind and solar generation.



October 19, 2009: Staff met with representatives of the area, which have formed a group known as "A.R.E.N.A.", which stand for "Alliance for Responsible Energy of Northern Arizona". This group discussed the five NZ Legacy projects as a whole, as well as site-specific issues. Additionally, the ARENA group noted specific concerns with the conditions applied to the meteorological towers as recommended by the Planning Commission such as night-time lighting, data transmission and contact information for the tower operator in the event of any problems. Staff is proposing modifications to the Planning Commission's conditions based on these and other concerns – these revised conditions are noted later in this staff report.

**COUNTY ATTORNEY:**

No comments to add.

Initial: L.P.

Date: 10/6/09

**ENGINEERING:**

Engineering Staff has reviewed the proposed site plan and has no objection to this Special Use Permit, provided all recommendations listed below are met.

Initial: D. B. S.

Date: 09/29/09

**DRAINAGE & TRAFFIC:**

Drainage Engineering Staff has reviewed the proposed site plan and has no objection to this Special Use Permit.

Initial: N.C.

Date: 9/30/09

**FLOOD CONTROL:**

The Flood Control staff has reviewed the Special Use Permit application for the Bar J Bar Ranch Met tower proposal dated 9/24/09. After reviewing the FEMA flood map for this area it is determined that the proposed Met tower locations are outside of the Special Flood Hazard Areas. Flood Control has no objections to this Special Use Permit as it has been presented to staff.

Initial: T.L.

Date: 9/30/09

**PLANNING & ZONING:**

The purpose of these meteorological towers is to measure wind data for the purpose of evaluating potential alternative (wind) energy production. Each tower will be no more than 197 feet tall and will be located within 500 feet of the location indicated on the Conceptual Site Plan. None of the towers will be located within the 1,000 foot setbacks. Planning staff supports alternative energy exploration and production. This project is located outside the Cedar Hills planning area.

Initial: G.L.

Date: 10/28/09

Additionally, the legal notice for this item has been printed in the Holbrook Tribune and placards were posted at the site & vicinity, in compliance with Arizona Revised Statutes and Article 29.

Finally, the applicant has submitted the plans and supporting documentation required by Section 2002(1) of the Navajo County Zoning Ordinance. Staff has reviewed the submitted materials, site plans, and related exhibits in accordance with these requirements and finds that the submitted documentation conforms to the requirements of the Ordinance and the promotion of the health, safety and welfare of the public.

**PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Board grant this Special Use Permit request, staff would recommend the following conditions be applied:

1. This Special Use Permit shall allow for the installation of a maximum of four (4) meteorological towers, each with a maximum height of 197 feet. The meteorological tower(s) are to measure wind conditions on the subject properties.
2. The meteorological tower(s) shall be allowed to occur only in the locations as indicated on the approved site plan, except as may otherwise be approved by the Navajo County Public Works Department.
3. Building permits are required for all meteorological tower(s) and any accessory uses (such as fences, etc.), and the issuance of a permit shall be acquired prior to placement of any meteorological tower(s).
4. A Floodplain Use Permit (where required) shall be obtained prior to issuance of any building permits.
5. Meteorological tower(s) and all guy-wire attachments/footings shall be enclosed by a security fence with a maximum height of 8' (excluding barbed wire or cyclone wire). Information regarding who to contact in the event of an emergency or any problems with the tower or its associated uses & structures shall be placed upon the fence. The information is to include a contact name, company name, and phone number for someone who can be reached 24 hours a day, 7 days a week.
6. Each meteorological tower(s) shall include the installation of red blinking lighting that conforms to FAA regulations. The use of strobes or strobe-type lighting is prohibited. The top thirty feet (30') of each meteorological tower(s) shall also be painted in alternating orange and white colors.
7. Prior to acquiring a building permit, the developer shall work with the Game & Fish Department to determine the installation of Bird Flight Diverters on the guy wires and the location of acoustic monitoring stations on the meteorological towers.
8. Prior to acquiring a building permit, the developer shall work with the Game & Fish Department to select meteorological tower sites that avoid habitat features that congregate wildlife.



9. Provide GPS locations of the final sites of each meteorological tower to the Arizona Game and Fish Department, and to Navajo County.
10. The meteorological tower(s) shall be located so it will not fall onto an adjacent property nor another structure.
11. The minimum setback for the meteorological tower(s) shall be 1,000' from the boundary of the Special Use Permit area, and 750' from any public roadway.
12. Prior to issuance of any building permits for any meteorological towers, the developer shall submit to Navajo County information regarding the manufacturer of the tower, structural information, information regarding who to contact in the event of an emergency or any problems with the tower, and information regarding how data is collected and transmitted.
13. Construction of the meteorological tower(s) shall commence within twelve (12) months following approval by the Navajo County Board of Supervisors. Failure to do so may result in a review by the Board of Supervisors for possible revocation of the Special Use Permit.
14. The Special Use Permit shall be reviewed 36 months after Board of Supervisors approval by the Navajo County Planning and Zoning Department to determine whether it should be extended or terminated.



# Neighbor Buffers

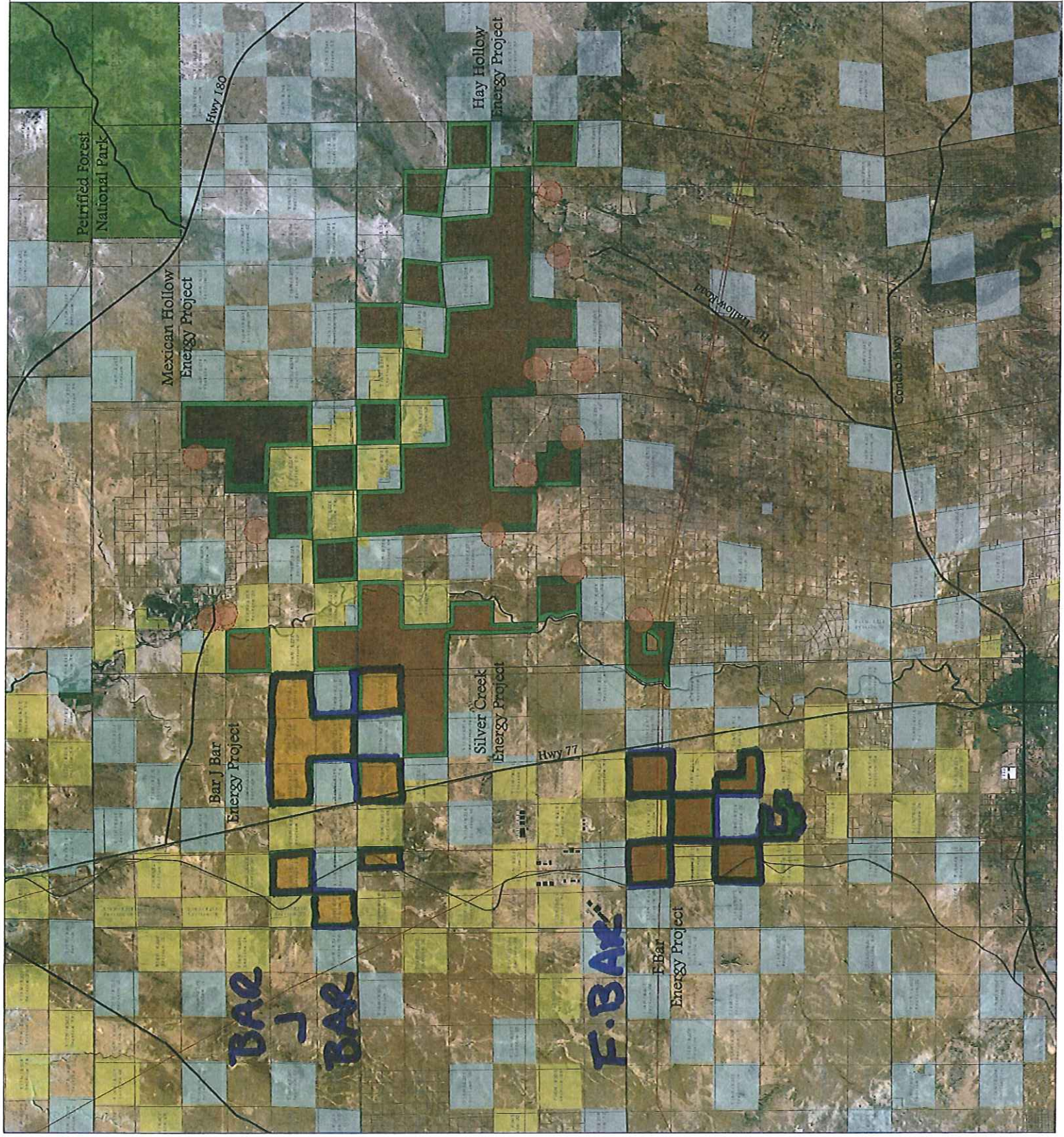
- 500' Tower Buffer  
(Federal, State, and Agricultural Lands)
- 1,000' Tower Buffer  
(Residential Lands)
- 1,500' Tower Buffer  
(Existing Homes within 2,500' of Project boundaries)

Existing Home locations visually located based on Google Earth aerial information

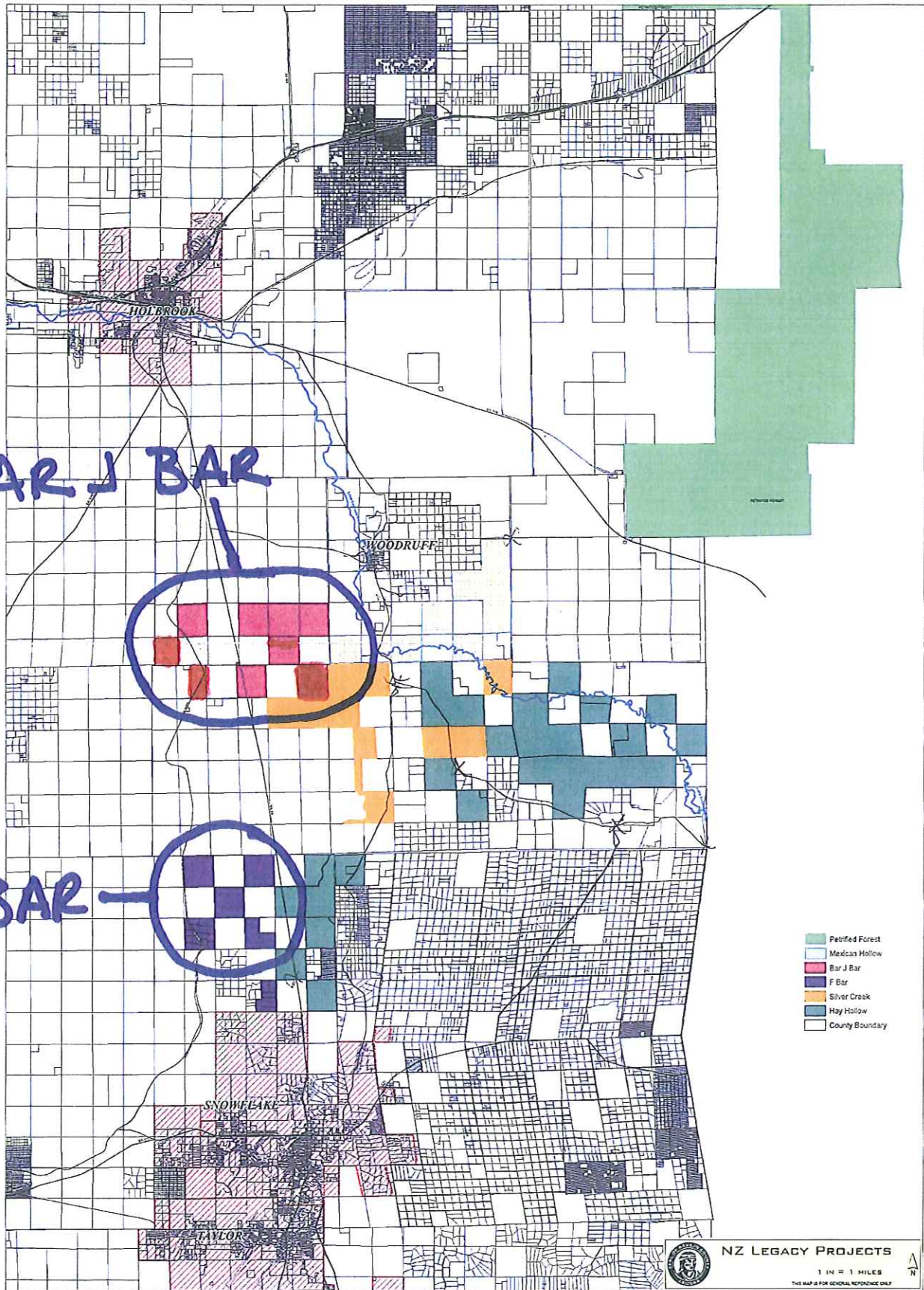
- BLM Land
- State Land
- Transmission Corridor

Drawings and Specifications, as instruments of service, are the property of the architect and may not be reproduced or used in any form without the written consent of the architect. The drawings and information depicted herein are conceptual in nature and are not intended to represent any specific, or particular, or definite concept. We do not represent, warrant, or guarantee that such information is true or that it accurately represents the actual conditions of the site. The information herein is for display purposes only and was obtained from outside sources assumed by N2 Legacy and its affiliates to be reliable.

31 AUGUST 2009







NZ LEGACY PROJECTS

1 IN = 1 MILES

THIS MAP IS FOR GENERAL REFERENCE ONLY





# Conceptual Site Plan

- Proposed Met. Tower  
with a 1/2" radius, not within 50' of any other tower
- Neighbor Buffer
- Primary Access Point
- Secondary Access Point
- Service Access
- Transmission Line (Existing)

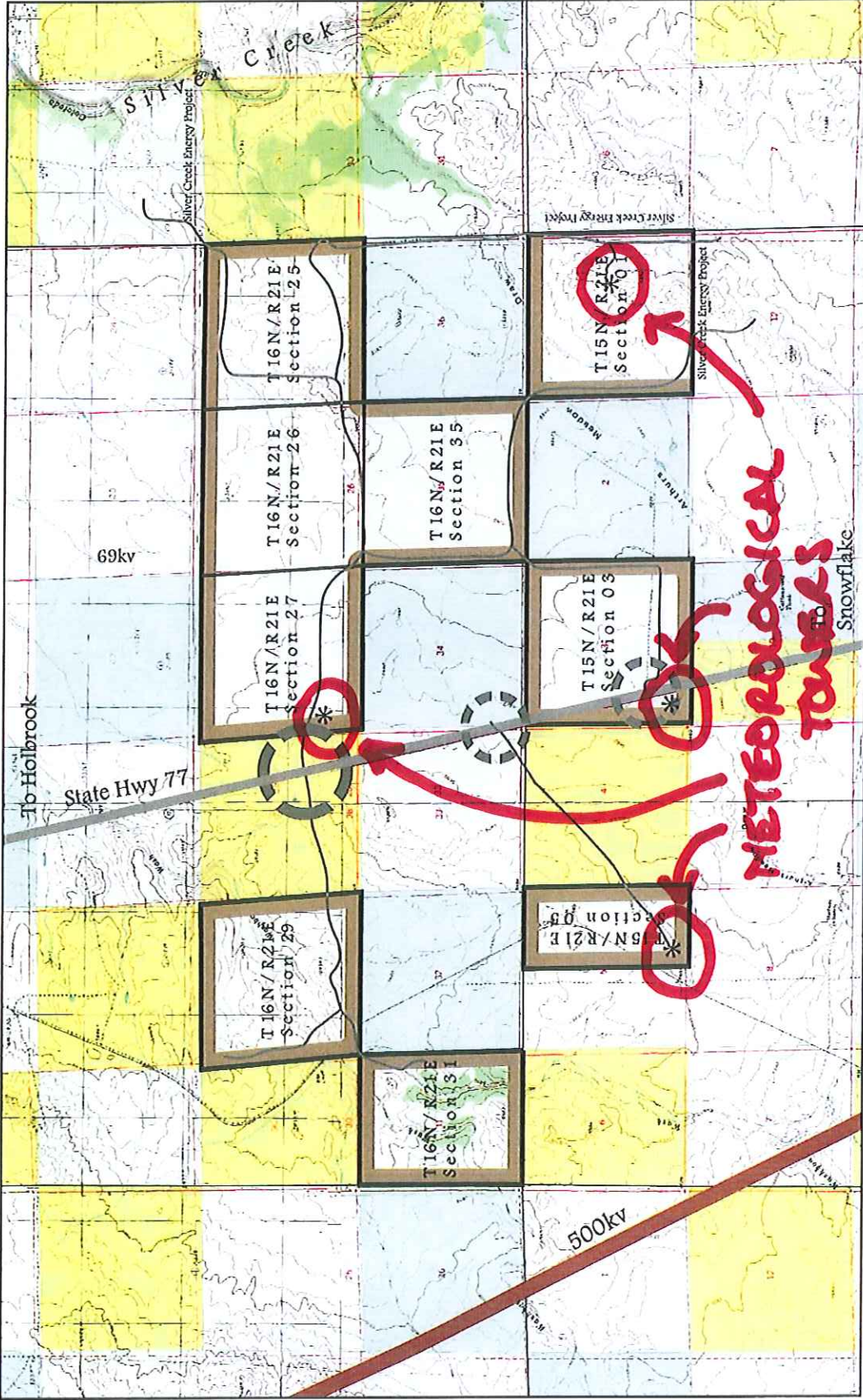
Met Towers located in APN:  
110-03-001c  
110-03-001d  
110-08-003a

Met Towers Lat / Long:  
34.7519251 / -110.1161782  
34.7206035 / -110.1411681  
34.7208953 / -110.1151094  
34.7264873 / -110.0705769

Met Towers' locations may alter (or be altered) with, and wind resource efficiency, light on and tower may be altered. State grading may be required for installation of infrastructure. Service Access may be asphalt, decomposed granite, gravel, or gravel. Other materials may be approved by the County.

The Bar J Bar Energy Project is a transmission line project and the purpose of this plan is to show the location of the towers and the location of the towers. The towers are located in the area of the project. The towers are located in the area of the project. The towers are located in the area of the project.

24 SEP 2009

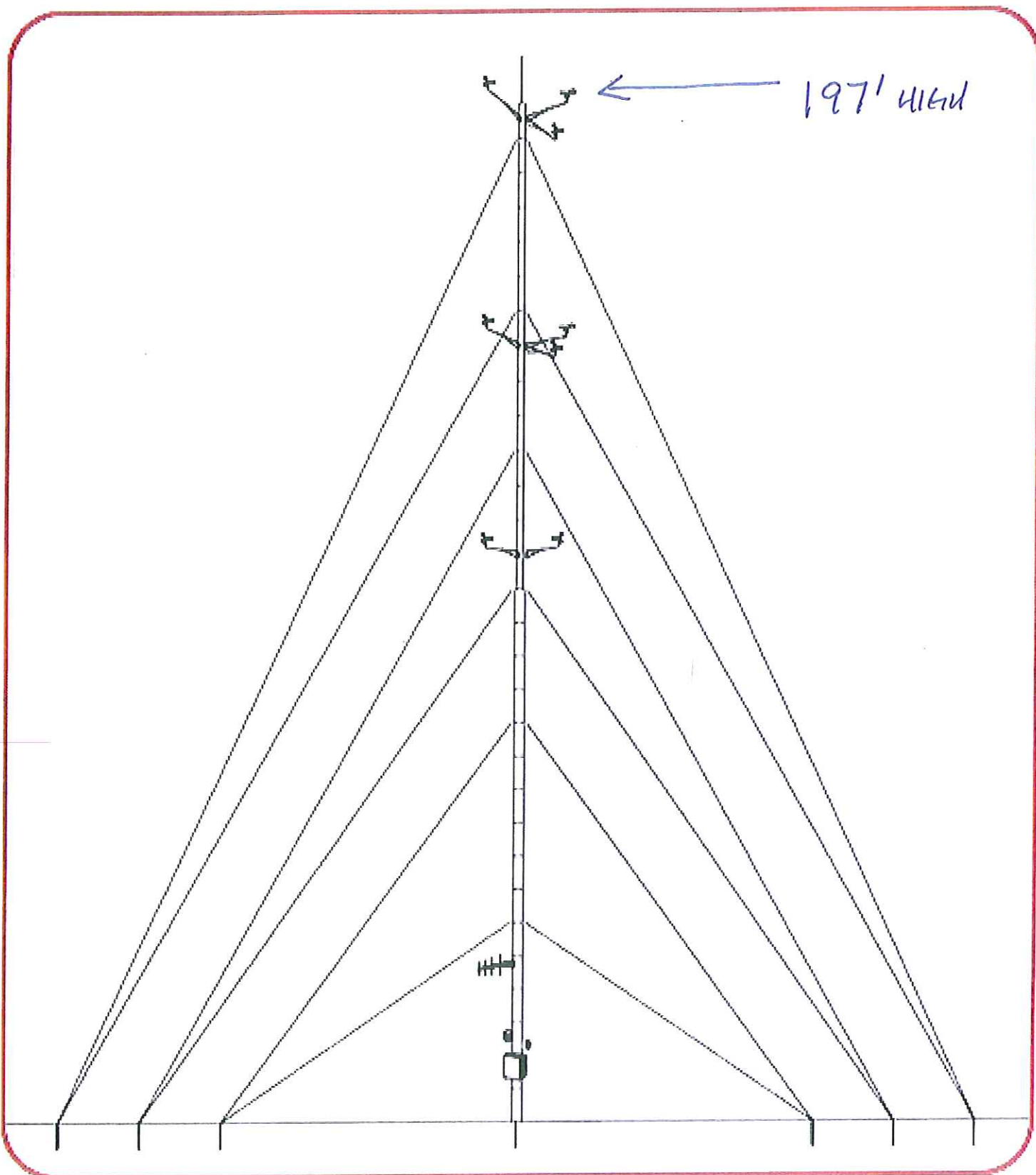


**METEOROLOGICAL TOWERS**

Bar J Bar Energy Project

INSPIRITULO  
The Spirit of the Place





September 24, 2009

Navajo County Public Works Department  
Planning and Zoning  
100 E. Carter Drive  
Holbrook, Arizona 86025

Attn: Greg Loper

Subject: Bar J Bar Energy Project

NZ Legacy (NZ Silver Creek, LLC) hereby requests an Amendment to our Special Use Permit Application for the Bar J Bar Energy Project to allow the placement of four (4) Meteorological testing towers (Met towers) at the locations identified on the attached Conceptual Site Plan. Each Met tower will be sited within 500 feet of the indicated location but in no instance will they be located within the identified 1000 foot setbacks. It is anticipated that these towers will be placed within 3 months of approval and only after Building Permits are obtained from Navajo County. This requested Amendment is for Met towers only and it is anticipated that at a later date an Amendment will be requested for Solar applications and then after receipt of sufficient wind data from the Met towers that an Amendment will be requested for Wind Turbines.

The Met towers will be located in portions of APN's 110-03-001d, 110-03-001e, and 110-08-003a. The Lat/Longs are listed on the Conceptual Site Plan.

Sincerely,

Rulon Anderson



## **RESOLUTION NO. 09:23P**

### **A RESOLUTION OF THE NAVAJO COUNTY PLANNING & ZONING COMMISSION RECOMMENDING APPROVAL OF A SPECIAL USE PERMIT IN THE BAR J BAR RANCH AREA.**

**WHEREAS**, an application for a Special Use Permit was duly filed on September 24, 2009 by Langley NZ Ranches, LLC, to allow NZ Legacy to erect (4) meteorological testing towers with a total height each of 197 feet to measure wind for the potential of alternate power (may also be used to collect solar and/or other activity); and

**WHEREAS**, the application concerns the following real property in Navajo County:

APN: 110-08-003A, 110-03-001E & 110-03-001D, Sections 3 & 5 of Township 15 North, Range 21 East, of the Gila and Salt River Meridian.

**WHEREAS**, the applicant is the owner of the above-described property according to a Warranty Deed recorded in the Office of the Navajo County Recorder on November 30, 2005 Instrument Number 2005- 35800; and

**WHEREAS**, the application was considered by the Navajo County Planning & Zoning Commission at a duly noticed public hearing on October 15, 2009; and

**WHEREAS**, the Planning & Zoning Commission, after considering the testimony and other evidence presented at the hearing, as well as the recommendations of staff, finds that the Special Use Permit will be consistent with the public health, safety and general welfare and should be APPROVED subject to the stipulations set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning & Zoning Commission hereby recommends APPROVAL of the Special Use Permit, subject to the following stipulations:

1. This Special Use Permit shall allow for the installation of a maximum of 4 meteorological towers, each with a maximum height of 197 feet. The meteorological tower(s) are to measure wind and solar conditions on the subject properties.
2. The meteorological tower(s) shall be allowed to occur only in the locations as indicated on the approved site plan, except as may otherwise be approved by the Navajo County Public Works Department.
3. Building permits are required for all meteorological tower(s) and any accessory uses (such as fences, etc.), and the issuance of a permit shall be acquired prior to placement of any meteorological tower(s).
4. A Floodplain Use Permit (where required) shall be obtained prior to issuance of any building permits.
5. Meteorological tower(s) and all guy-wire attachments/footings shall be enclosed by a security fence with a maximum height of 8' (excluding barbed wire or cyclone wire).

6. Each meteorological tower(s) shall include the installation of lighting that conforms to FAA regulations. The top thirty feet (30') of each meteorological tower(s) shall also be painted in alternating orange and white colors.
7. Prior to acquiring a building permit, work with the Game & Fish Department to determine the installation of Bird Flight Diverters on the guy wires and the location of acoustic monitoring stations on the met towers.
8. Prior to acquiring a building permit, work with the Game & Fish Department to select tower sites that avoid habitat features that congregate wildlife.
9. Provide GPS locations of the final sites to the Game & Fish Department and to Navajo County.
10. The meteorological tower(s) shall be located so it will not fall onto an adjacent property nor another structure.
11. The minimum setback for the meteorological tower(s) shall be 1,000' from the boundary of the Special Use Permit area.
12. Construction of the meteorological tower(s) shall commence within twelve (12) months following approval by the Navajo County Board of Supervisors. Failure to do so may result in a review by the Board of Supervisors for possible revocation of the Special Use Permit.
13. The Special Use Permit shall be reviewed 36 months after Board of Supervisors approval to determine whether it should be extended or terminated.

**BE IT FURTHER RESOLVED** that the Secretary shall transmit this Resolution to the Navajo County Board of Supervisors as the recommendation of the Planning & Zoning Commission.

**PASSED, APPROVED AND ADOPTED** by the Planning & Zoning Commission by a vote of \_\_\_\_ yeas and \_\_\_\_ nays on October 15, 2009.

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**Chairman, Navajo County  
Planning & Zoning Commission**

**ATTEST:**

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**Secretary, Navajo County  
Planning & Zoning Commission**